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SENSITIVE  
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STATE FOR EB/IFD/OIA HGOETHERT, KBUTLER AND L/CID PPEARSALL

E.O. 12958: N/A

TAGS: CASC EINV KIDE OPIC PGOV EZ  
SUBJECT: CZECH REPUBLIC 2009 REPORT ON INVESTMENT DISPUTES  
AND EXPROPRIATION CLAIMS

REF: SECSTATE 49477

¶11. (U) The United States Government is generally aware of many United States citizens of Czech descent who have outstanding claims against the Czech Government, but who were not U.S. citizens at the time their claims arose. As noted in the introduction, the Act does not require a report on their claims. The Department of State, however, provides appropriate assistance to all U.S. persons with claims against the Czech Republic.

¶12. (U) In August 1999, the Czech President signed a law that permits Czech Americans who lost their Czech citizenship between February 1948 and March 1990 to reapply to become citizens without losing U.S. citizenship. Additional legislation would be required for these people to obtain restitution of their former properties. The government maintains that it has already returned most such properties to other Claimants, primarily relatives of those who emigrated. The Department of State will continue to press the government to change this policy and provide for some form of equitable compensation.

¶13. (U) In July 2000, the Czech President signed a law that will benefit some U.S. citizens of Czech-Jewish descent whose property was confiscated between September 1938 and May 1945 in the Holocaust during German occupation. Several thousand objects of art in the possession of the state are to be returned to their owners who, in most cases, still have to be identified. A list of unclaimed items is maintained by the Ministry of Culture; the list is available on the Internet at [www.restitution-art.cz](http://www.restitution-art.cz). The government initially set a December 2006 deadline for filing claims but Parliament has abolished the deadline. The Czech government, however, reserves the right to prevent the exportation of restituted art works that it deems to constitute a part of the national heritage. In 2000, a foundation was also established to provide partial compensation for real estate confiscated during the Holocaust to Holocaust victims (and their heirs) who filed timely claims, and whose property the state needed to retain or whose property was not in the state's possession. This compensation mechanism, however, was concluded in 2005.

¶14. (SBU) The United States Government is aware of one (1) claim of United States persons that may be outstanding against the GCR and one (1) claim that was resolved in the past year:

a) Claimant A

b) 2001

c) Claimant A alleges that the GCR's Radio and Television Council arbitrarily and unlawfully refused to approve the transfer of a television license to its Luxembourg subsidiary as agreed with the license holder. The Council's refusal

allegedly unlawfully deprived the investor of its contractual rights, and devalued its investment in the television station operating company, estimated at USD 15 million. In June 2002, Claimant A ceased operations and filed for bankruptcy in the Czech Republic. In February 2003, Claimant A filed a notice of arbitration under the Luxembourg-Czech Republic Bilateral Investment Treaty (BIT). In the Notice of Dispute, Claimant A urged the GCR to discuss with Claimant A whether an amicable resolution to the dispute could be reached within six months following the date of the Notice of Dispute, as required by the BIT. Settlement discussions between Claimant A and the GCR Ministry of Finance occurred throughout 2003 and 2004, but the parties could not reach an amicable resolution. In August 2005, Claimant A submitted its dispute to ad hoc arbitration in accordance with the BIT by filing a Notice of Arbitration. In May 2006, Claimant A filed a Statement of Claim. The GCR filed its Statement of Defense in September 2006. In February 2007, the Tribunal rejected the GCR's request to dismiss the case based on lack of jurisdiction. The GCR appealed the decision to the English courts. In November 2007, the English High Court rejected the GCR's challenge to jurisdiction and its request to appeal. In December 2007, the GCR filed an arbitration rejoinder, followed by a round of rebuttals from each party and a hearing on the merits. The Tribunal's final decision is anticipated during the next few months.

a) Claimant B

b) 2005

c) Claimant B alleges that the majority stockholders in Kotva, a.s., a corporation for which the main asset was real estate where the Prague department store Kotva is located, sold the real estate with the intention of fraudulently transferring the proceeds out of Kotva, a.s. and depriving him, as minority stockholder, of the benefits. During settlement negotiations, Claimant B demanded the majority stockholders purchase his shares, failing which, he would file civil lawsuits in the Czech Republic to prevent the transfer of the real estate. Based on a complaint by the majority shareholders, prosecutors employed by the Czech government initiated a prosecution of Claimant B for extortion, expressly based on Claimant B's threat to file civil lawsuits to protect his rights. Claimant B states that his ability to defend his property interests in the Czech Republic was compromised by the pending criminal charges brought against him by the Czech government. In 2007, the jury in a civil suit in the United States found that Claimant B's primary motivation had not been to delay or disrupt the transaction. Subsequently, Claimant B and the majority shareholders reached an amicable settlement and all claims and counter claims were dropped. The majority shareholders also notified the Czech authorities that new information had arisen during the civil trial to convince them that Claimant B had not acted improperly and that they were withdrawing their complaint. In 2008, the Czech prosecutor terminated the criminal investigation against claimant B.

15. (SBU) Claimant A: European Media Ventures, S.A.; EMV was established in 2000 by Argus Capital, sponsored by the Prudential Insurance Company of America, whose major investors include Prudential and the state of Michigan; no privacy act waiver.

16. (SBU) Claimant B: Professor Andrew Weiss; U.S. citizen; no privacy act waiver.  
Thompson-Jones